



## House Bill 1390

### *Criminal Procedure - Pretrial Release - Reform*

MACo Position: **SUPPORT**

To: Judiciary Committee

Date: March 7, 2017

From: Natasha Mehu

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1390 as counties share an interest in maintaining a just, effective, and efficient pretrial system.

HB 1390 endeavors to codify rule changes adopted by the Court of Appeals to address concerns that bail was being set in a manner that could be determined to violate due process rights and constitutional prohibitions against excessive bail. Counties believe the adopted rules strike a reasonable balance between addressing those concerns and retaining a judge's discretion to use bail when appropriate. Uncodified bill language directs local governments to establish pretrial programs by December 2021. Counties support pretrial programs and hope that the directive occurs in a manner that gives deference to local needs and capabilities.

Much debate has centered on the issue of bail, however pretrial reform has been an underlying element. Pretrial programs help to mitigate the fiscal and human cost concerns with unnecessary incarceration. About half of the counties in Maryland operate some form of a pretrial program. Those that do not, often partner with parole and probation to provide such services. These programs help support safety and efficiency by ensuring the appropriate high risk individuals are incarcerated, while the appropriate low risk individuals are released.

While HB 1390 requires local governments to establish pretrial programs, it provides a four year phase-in so counties that do not currently have a program can make the transition or form the necessary partnerships to have the services provided. Additionally, the bill mitigates concerns regarding implementation costs by providing eligibility for start-up grant funding. It is important to keep in mind that counties are best situated to determine the parameters of their pretrial programs and will do so based on the needs of their communities and the resources that are available. Pretrial programs do not work on a "one size fits all" basis.

County jails are a substantial part of the state's criminal justice system. Individuals being held pretrial account for 60-65% of the local jail population which amounts to 7,000-7,500 individuals at any given point in time. From a county perspective, the fiscal and human costs of incarcerating individuals pretrial that do not need to be incarcerated or simply cannot pay for monetary bail can be significant. It costs \$83-\$153 a day to incarcerate an individual in jail, with an annual cost of \$22.65-\$44.75 million. Those resources can be better expended on incarcerating those who are a risk to the community and otherwise releasing or supervising those who are not. Individuals that are held pretrial unnecessarily also face the loss of employment, housing, government benefits, and other disruptions that can impede efforts to become a productive member of the community.

MACo supports resolving issues of inefficiency and inequality in the criminal justice system. As the state debates reform, counties encourage the reasonable, phased-in, grant-based approach that HB 1390 provides. For these reasons, MACo urges a **FAVORABLE** report on HB 1390.